IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 912 of 2005 (S/S)

Devpal Singh Singh S/o Sri Shyam Lal Singh
At present working as Assistant Teacher ……..Petitioner

Versus

1. State of Uttaranchal through
its Secretary (Education)
Dehradun
District Dehradun
2. Director of Education
Camp Office at Dehradun
District Dehradun
3. Additional Director of Education
Garhwal Mandal
Pauri, District Pauri Garhwal
4. District Education Officer, Dehradun
District Dehradun ……..Respondents

Sri Rakesh Thapliyal, learned counsel for the petitioner
Sri Paresh Tripathi, learned standing counsel for the State.

Hon'ble B.C. Kandpal, J.

By means of this writ petition a relief has been sought in the nature of certiorari quashing the impugned transfer order dated 29.06.2005 passed by the respondent No. 3 i.e. Additional Director of Education.

Brief facts giving rise to this petition are that the petitioenr passed the graduation in IInd division in the subject of Hindi, Political Science, Sociology and General English. Thereafter, in 1990 the petitioner completed the B.Ed. training course in IInd Division and in 1991 he passed M.A. in Sociology and in 2004 the petitioner completed M.A. final examination in Political Science in IInd Division.

In 1991, the petitioner was appointed as an Assistant Teacher in C.T. Grade on regular basis by a duly constituted selection committee and thereafter in 1998 the petitioner was promoted on regular basis on the post of Assistant Teacher in L.T. Grade (General), however, vide other dated 06.05.2004, the petitioner was treated to be promoted or absorbed on L.T.

Grade w.e.f. 01.01.1996. The petitioner was transferred to the present place of posting against the vacant post from G.I.C. Guniyalgaon (Mussorrie) District Dehradun without any consent of the petitioner vide order dated 15.06.2002.

The petitioner has further averred that he was transferred form Guniyalgaon to Jhibreir District Dehradun Government Higher Secondary School Jhibreri which was upgraded in the year 2000 and seven posts of L.T. Grade Teachers were sanctioned for the institution and since then only seven teachers were working against these sanctioned vacancies. So, it is clear that there is no surplus teacher in the institution and all the Assistant Teachers are working against the sanctioned posts and as such none of the teacher including the petitioner are teaching inconsistent subject.

The respondent No. 3 i.e. Additional Director of Education, Garhwal Mandal transferred the petitioner form Jhinwerhedi to Government intermediate College, Dupadhar of District Tehri Garhwal vide transfer order dated 29.06.2005.

Feeling aggrieved by the aforesaid transfer order, the petitioner has preferred this writ petition before this Court.

Heard learned counsel for the petitioner as well as learned standing counsel for the State and perused the record.

Learned counsel for the petitioner has invited my attention towards the Government Policy pertaining to the transfer of the teachers which is quoted below:-

> *"10 o"k ;k mlls vf/kd Bgjko okys f'k{kdksa dh lph cukrs le; vkj jkx@chekjh] fodykxrk] v/;kid ifr&iRuh rFkk lokfurfRr ds 2 o"k vFkok mlls de vof/k okys f'k{kdksa dks lfEefyr ugh fd;k tk,xkA"*

Learned counsel for the petitioner has further stated that the parents of the petitioner are very old and his son is one month old only. Hence, these terms have not been taken into consideration by the respondents while transferring him.

It has been contended by the learned counsel for the petitioner before this Court that the petitioner is not imparting education with regard to any inconsistent subject and this fact has wrongly been mentioned in the transfer order.

In view of the submission advanced by the learned counsel for the petitioner as well as the documents filed by him along with this writ petition, I am of the opinion that the writ petition should be finally disposed of at this stage with the direction that the respondent No. 3 should decide the representation of the petitioner in the light of the G.O. which has been quoted in the body of the judgment.

The writ petition is accordingly finally disposed of.

However, it is open for the petitioner to move fresh representation before the respondent No. 3 within a period of 15 days along with certified copy of the judgment and the respondent No. 3 shall thereafter decide the representation of the petitioner within a period of 30 days by passing the speaking and reasoned order.

(B.C. Kandpal, J.)

11.07.2005
ASWAL